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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,849	08/11/2003	James Xixian Wu	SP-1076.2 US	4449

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EXAMINER

CANTELMO, GREGG

ART UNIT PAPER NUMBER

1745

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/638,849

Applicant(s)

WU, JAMES XIXIAN

Examiner

Gregg Cantelmo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005 and 18 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 6-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. In response to the amendments received March 15, 2005 and April 18, 2005:
 - a. Claims 1-4 and 6-7 are pending, claim 5 having been cancelled as per Applicant's request;
 - b. The specification objection has been overcome in light of the amendment;
 - c. The prior art rejections of record stand;
 - d. The double patenting rejection has been overcome in light of the terminal disclaimer filed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,263,380 (Riedl).

Riedl discloses a non-crimped alkaline electrochemical cell having an adhesive closure comprising: a container 1 having an open end and a side wall, a positive electrode 7, a negative electrode 6, an alkaline electrolyte solution, a cover 4 disposed on the open end of the container and having a peripheral wall extending radially outside of the side wall of container 1 (Fig. 2). An adhesive material 51 is disposed between the sidewall of the container and the peripheral wall of the cover for adhering the cover to

the container. Neither the peripheral wall of the cover 4 nor the open end of the container 1 is crimped (Fig. 3 as applied to claim 1).

A seal 52 is disposed between the sidewall of the container and the peripheral wall of the cover (Fig. 3 as applied to claim 2).

Riedl discloses a non-crimped alkaline electrochemical cell having an adhesive closure comprising: a container 1 having an open end and a side wall, a positive electrode 7, a negative electrode 6, an alkaline electrolyte solution, a cover 4 disposed on the open end of the container (Fig. 2). An first adhesive material 51 is disposed between the sidewall of the container and the peripheral wall of the cover for adhering the cover to the container. A second adhesive material 52 is disposed between the side wall of the container and the peripheral wall of the cover (Fig. 3, col. 4, ll. 32-59 and col. 5, ll. 34-44 as applied to claim 3).

First adhesive 51 is closer to the open end of the container 1 and the second adhesive 52 is located further away from the open end of the container (Fig. 3 as applied to claim 4).

The cover seals the upper surface of the can and therefore inherently comprises a seal (Figs. 2 and 3 as applied to claim 6).

The cover 4 disposed on the open end of the container and having a peripheral wall located on the outer surface of the container 1 (Fig. 2 as applied to claim 7).

Response to Arguments

3. Applicant's arguments filed March 15, 2005 have been fully considered but they are not persuasive.

The Examiner disagrees with Applicant's interpretation of the prior art of Riedl as to the issue of a crimped or non-crimped structure.

The Examiner maintains the position that the structure in Figs. 2 and 3 shows a non-crimped structure relationship between the cover 4 and container 1

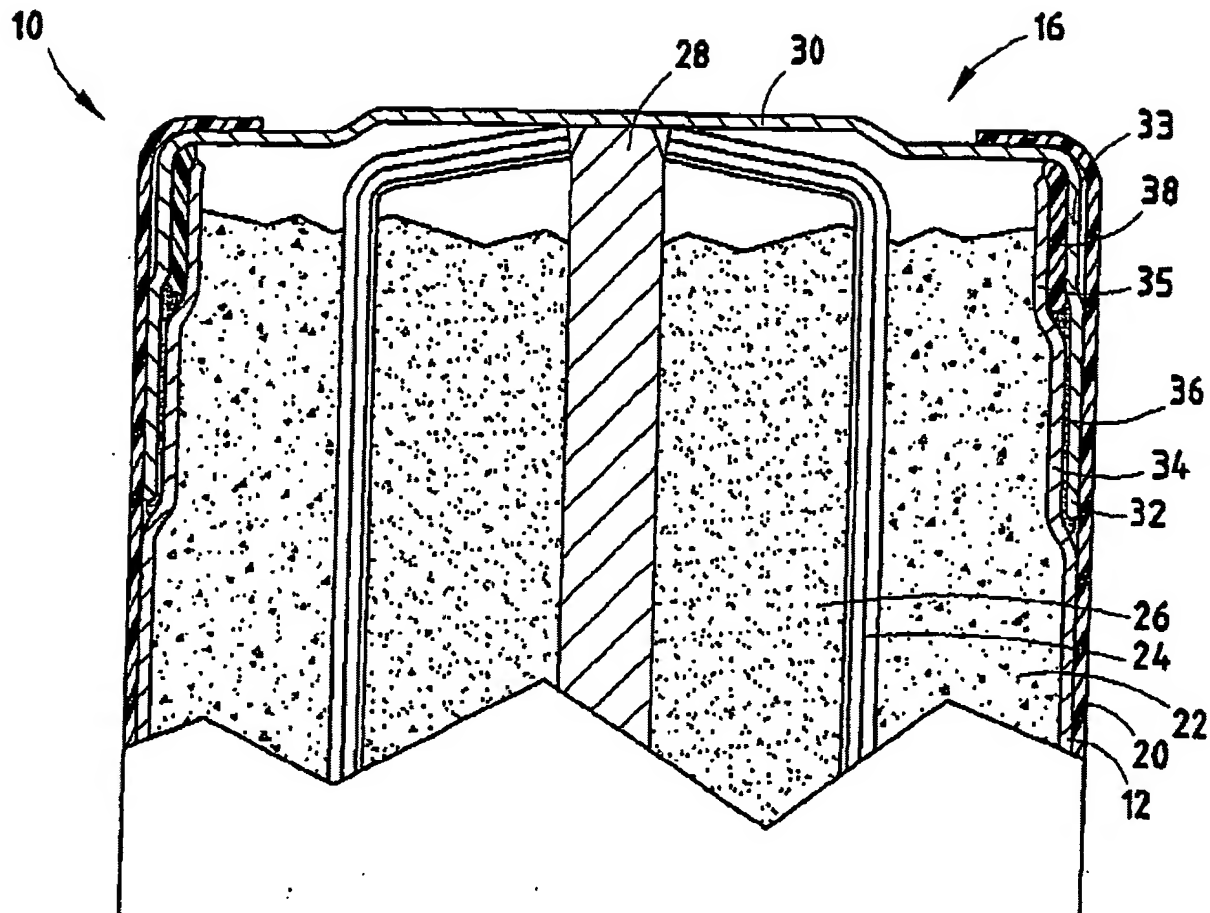
Applicant's own disclosure of to Fig. 1 shows that the cover 30 which is cup-shaped having bent edges is placed in a sealing arrangement with the container. The disclosure of Riedl is identical to this arrangement as claimed (discussed above). A complete review of the original disclosure of the instant application reveals that Applicant's own disclosure recognizes this arrangement to be exemplary of a non-crimped design (see Fig. 1 and paragraph bridging pages 6 and 7 of the instant Applications own disclosure).

The Examiner has appreciated the references cited in attempt to support Applicant's arguments but considering these arguments are not commensurate with the original disclosure's teachings of what constitutes a non-crimped design between the cover and container.

Provided herein is a side-by-side comparison between Fig. 1 of the instant application, an admitted embodiment of a non-crimped arrangement between the cover and container of a battery and Fig. 3 of Riedl.



FIG. 1 OF THE INSTANT APPLICATION

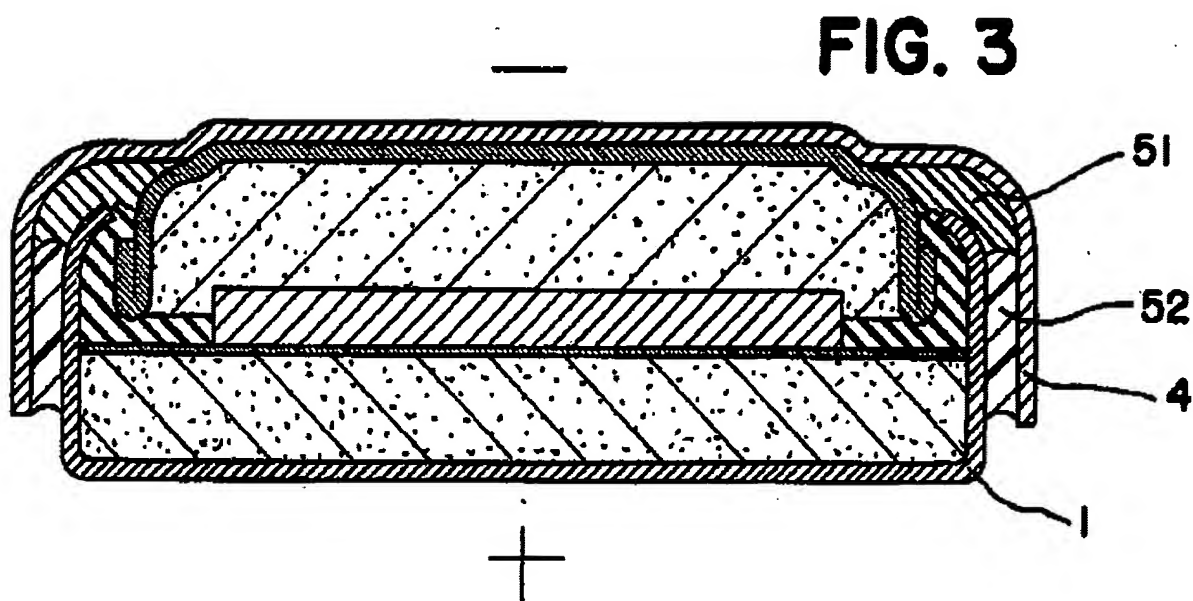


In Fig. 1 of the instant application, reference character 30 corresponds to the cover and 12 to the container. As described in the paragraph bridging pages 6 and 7 of

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the instant application, this arrangement is a non-crimped arrangement between the cover 30 and container 12.

FIG. 3 of RIEDL



In Fig. 3 of Riedl, reference character 4 corresponds to the cover and 1 to the container. This arrangement, structurally identical to the cover and container arrangement with respect to the claimed invention is also understood to be non-crimped arrangement between the cover 4 and container 1.

It should be apparent for the reasons set forth above, and from the analysis of the corresponding figures below, that the prior art in fact anticipates the non-crimped structure. Therefore the rejection stands.

Terminal Disclaimer

4. The terminal disclaimer filed on March 15, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. patent No. 6,605,383 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregg Cantelmo whose telephone number is (571) 272-1283. The examiner can normally be reached on Monday to Thursday from 9 a.m. to 6 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. FAXES received after 4 p.m. will not be processed until the following business day.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregg Cantelmo
Primary Examiner
Art Unit 1745

gc

A handwritten signature in cursive script, appearing to read "Gregg Cantelmo".

June 9, 2005